

## REMARKS

This Amendment is filed in response to the Office Action dated November 5, 2008. Applicant first notes with appreciation the courtesies extended by the Examiner to Applicant's counsel in a recent telephone interview.

Turning to the Office Action, Applicant has amended Claims 1 and 21 and cancelled Claims 23-25. Following these amendments, the application includes Claims 1, 3, and 21. Applicant respectfully submits that the pending claims are patentable and respectfully requests reconsideration in light of the following remarks.

### **I. The Claims Are in Proper Form**

On pages 2-4, the Office Action raises several objections and rejections regarding the form and/or text of the claims. Applicant has amended the claims to address these rejections. Applicant respectfully submits that in light of these amendments, the claims are now in proper form.

### **II. The Claims Are Patentable**

The Office Action rejects independent Claim 1 as anticipated by U.S. Patent No. 5,063,929 to Bartelt (the "Bartelt patent") and as either anticipated or obvious in light of U.S. Patent No. 4,390,023 to Rise (the "Rise patent"). Applicant respectfully submits that amended independent Claim 1 is patentable over the cited references.

Specifically, amended independent Claim 1 recites at least one switching control device that during a treatment causes "the intermittent formation of probes as active probes or return probes causing the establishment of electrical currents passing through different paths through the subject with an electrical current being established between a connection probe and more than one other connection probe simultaneously during a treatment." This aspect of the claimed invention is nowhere taught or suggested by either Bartelt or Rise either individually or in combination.

The Bartelt patent does not teach or suggest at least this aspect of the claimed invention. In fact, Bartelt actually teaches away from the claimed invention. Specifically, the Bartelt patent discloses placement of probes on a subject that are connected via a switch to a power supply. But, the Bartelt patent states at col. 8, lines 64-67 specifically that when one channel (switch) is in operation that it is important that the other channel does not act as a return path. As such, in the Bartelt patent, there is no way for establishment of electrical currents passing through different paths through the subject with an electrical current being established between a connection probe and more than one other connection probe simultaneously during a treatment, as is recited in amended independent Claim 1.

The Rise patent also does not teach or suggest the claimed invention. The Rise patent, like the Bartelt patent merely discloses placement of various probes on a subject and connecting different probes to the power supply at different times. At best, the Rise patent only discloses intermittently activating each probe to treat a portion of the subject where the probe is located at a given time. It nowhere teaches or suggests establishment of an electrical current between a connection probe and more than one other connection probe simultaneously during a treatment, as is recited in amended independent Claim 1.

### **Conclusion**

In view of the amended claims and the remarks presented above, it is respectfully submitted that all of the present claims of the application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

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therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 13-4365.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Kevin Ransom', with a stylized flourish at the end.

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